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HISTORICAL DISCOURSE

BY

THEODORE D. WOOLSEY,

AND

ORATION

ON

THE INFLUENCE OF LAWYERS UPON FREE GOVERNMENTS, AND  
THE INFLUENCE OF MORAL FORCES UPON THE  
PROSPERITY OF GOVERNMENTS,

BY

Hon. EDWARDS PIERREPONT, LL.D.,

PRONOUNCED BEFORE

THE ALUMNI OF THE LAW DEPARTMENT

OF

YALE COLLEGE

AT THE

FIFTIETH ANNIVERSARY OF THE FOUNDATION OF THE DEPARTMENT,  
IN THE CENTRE CHURCH AT NEW HAVEN,

June 24th, 1874.



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## PREFATORY NOTE.

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The celebration of the Semi-centennial Anniversary of the Yale Law School, on Wednesday, June 24th, 1874, was attended by a large number of its alumni from all parts of the country. The public exercises of the occasion took place at the Centre Church in New Haven, on Wednesday afternoon, Hon. MORRISON R. WAITE, LL.D., Chief Justice of the Supreme Court of the United States, presiding, when the following discourse and oration were pronounced. After the adjournment of this meeting, the Alumni of the School proceeded to its new apartments, occupying one floor of the new Court House building, for an informal and social reunion. Short addresses were made by Chief Justice WAITE, Hon. JOHN BOYD, of the Class of 1826; Hon. THOMAS H. BOND and HENRY WHITE, Esq., of the Class of 1827; Rev. O. E. DAGGETT, D.D., of the Class of 1830; Hon. CORNELIUS VAN SANTVOORD, of the Class of 1835; Hon. EDWARDS PIERREPONT, of the Class of 1839; Hon. WILLIAM G. BATES, of Westfield, Mass.; Hon. ALPHONSO TAFT, of Cincinnati; Prof. CYRUS NORTHROP, of the Class of 1859, and Prof. WM. C. ROBINSON. Later in the evening the doors were thrown open for a more general reception, which was attended by the President and Fellows of the College, the Faculties of the other Departments, the Governor and Lieutenant-Governor of Connecticut, with the principal State officers, and other invited guests, gentlemen and ladies, numbering in all about five hundred.

An Alumni Association was organized by the graduates of the Law Department in 1872, which meets annually on Wednesday of Commencement-week, at the Law School Lecture-room. That day will hereafter be devoted to the Anniversary Exercises of the Department, which will hold its commencement in the afternoon, when members of the graduating class will read theses or deliver orations on legal topics, and a prize of \$100, established by Hon. JAMES M. TOWNSEND, of East Haven, Conn., will be awarded to the best writer and speaker on the occasion.

The staff of instructors in the Department during the past year has been as follows : REV. NOAH PORTER, D.D., *President*, FRANCIS WAYLAND, M.A., Professor of *Mercantile Law and Evidence*, and Lecturer on *English Constitutional History*; WILLIAM C. ROBINSON, M.A., Professor of *Elementary and Criminal Law and the Law of Real Property*; SIMEON E. BALDWIN, M.A., Professor of *Constitutional Law and the Law of Contracts and Wills*, and Lecturer on *Roman Law and Comparative Jurisprudence*; JOHNSON T. PLATT, M.A., Professor of *Pleading and Equity Jurisprudence*; CHARLES J. MCCURDY, LL.D., Lecturer on *Life Insurance*; REV. THEODORE D. WOOLSEY, D.D., LL.D., Lecturer on the *Law of Nations*; REV. LEONARD BACON, D.D., LL.D., Lecturer on *Ecclesiastical Law*; REV. JAMES M. HOPPIN, D.D., LL.B., Lecturer on *Forensic Composition*; MARK BAILEY, M.A., Instructor in *Elocution*; FRANCIS BACON, M.D., Lecturer on *Medical Jurisprudence*, and FREDERICK H. BETTS, M.A., Lecturer on *Patent Law*; DAVID D. BALDWIN, M.A., *Librarian*.



# HISTORICAL ADDRESS

BY

THEODORE D WOOLSEY.

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When Roman law was reaching its mature form, distinguished lawyers, like Q. and P. Mucius Scaevola, were wont to receive students into their houses, in order to give them some kind of informal instruction in jurisprudence. This was done not for pay—for an aristocratic Roman gentleman would have scorned getting a reward from pupils—but in order to benefit young friends, who had no law books nor law schools to aid them in learning the science. Cicero, thus, although never a professed jurist, was put by his father with Q. Mucius Scaevola, that he might draw instruction from his lips. But when Roman law became a complicated system under the emperors, schools arose for its study. Thus in the time of Justinian there were three great law schools, one at Rome in the West, and two in the East, at Constantinople and at Berytus or Beirout, together with some others of less note. The Eastern schools were represented in the preparation of the Digest by as many as four professors.

The modern university system began with the revived study of law at Bologna in the twelfth century, and this, as much as any other cause, overthrew feudalism by substituting new and better law for that of the feudal period. At another great centre of university life, the University of Paris, civil law was

not studied until late in the seventeenth century, owing to the management of the popes, who were afraid that Paris, as a law school, would eclipse Bologna. In our mother country, London, rather than the universities, was the centre of law study, where the inns of court provided societies, into which young men desiring to become lawyers and pleaders could be admitted, and could for a time obtain instruction.

Sir William Blackstone, as many of my hearers will remember, cites from old Fortescue this question, Why the laws of England were not taught in the universities, as the civil and canon laws were? Whatever may have been the reason, whether it was that the Latin of the lecture-rooms there was not suited for the proper treatment of the law of England, or that law students would go where cases on appeal were tried and a body of lawyers dwelt, in order to learn forms and principles at the place of chief resort,—I say, whatever may have been the reason, the fact seems to be admitted that there was no formal instruction given at either university in common law, until Mr. Viner founded at Oxford the professorship of that science, of which, in 1758, Blackstone was appointed the first incumbent.

In our country, for a long time after it became independent, the three learned professions were all alike in trusting for their new supplies to private instruction. Now and then a minister of eminence, like Dr. Bellamy of Bethlem, in this State, gathered about him quite a number of young men who had devoted themselves to the ministerial profession. The pupils heard lectures, read sermons or subjects of sermons or theological essays, and their influence on one another must have been very stimulating. Probably the same thing was true of eminent physicians. It certainly was of eminent lawyers.

It is worthy of notice that the first law school in the country of any considerable note was founded in the town of Litchfield, next to Bethlem, where Dr. Bellamy lived. Bellamy's



school was begun at least twenty-five years before the revolutionary war. The law school at Litchfield owed its origin to Tapping Reeve, a native of Long Island, a graduate at Nassau Hall, a son-in-law of President Burr, and so a brother-in-law of Aaron Burr, Vice-President of the United States, and was begun in 1784, just after the revolution was over. Some time before the end of the century Judge Reeve invited James Gould, a lawyer in Litchfield, a graduate of Yale College, of 1791, to take part in the instruction. They continued partners in the school until 1820, when, Judge Reeve having retired, Judge Gould became the head of the school and ere long associated with himself for a time Jabez W. Huntington, afterwards Senator of the United States and Judge of the Supreme Court of Connecticut. Down to 1833, when Judge Gould, about five years before his death, discontinued his lectures, there had been educated at Litchfield, according to Mr. Hollister (*Hist. of Conn.*, Vol. 2, p. 597), 1,024 lawyers from all parts of the United States, of whom 183 were from the Southern States. In this number are included fifteen United States Senators, five cabinet officers in the general government, ten governors of States, fifty members of Congress, forty judges of the highest State Courts, and two judges of the Supreme Court of the United States.

In the latter part of the eighteenth century and in the early years of the present, a school was set up in the city of New Haven by Charles Chauncey, a lawyer of extensive practice. Of this school I know but little. Judge Samuel Hubbard, of the Supreme Court of Massachusetts, and Judge Wayne, of the Supreme Court of the United States, studied under Judge Chauncey.

Mr. Seth P. Staples, a graduate of Yale College, of 1797, who soon attained to a large practice and a high reputation, and who, early in his professional life, seems to have collected a large library of unusual value for those times in this part of

the country, gathered around him a number of young men, whose law studies he superintended. This school, from which the existing law school of Yale College is a direct descendant, must have begun in the first decade of this century. One of the scholars in it was Samuel J. Hitchcock (Yale, 1809), a tutor in Yale College from 1811 to 1815, who fitted himself for the bar during his official connection with his alma mater, and afterwards settled in New Haven in the legal profession. In a few years Mr. Staples invited Mr. Hitchcock to assist him in the instruction of his pupils, and in 1824 removed to New York, leaving the school in the hands of Judge Daggett and Mr. Hitchcock. Mr. Staples' great repute as a lawyer did not desert him on his removal to a larger sphere of professional labors. He stood in the front rank of his profession, especially in commercial and patent law; he gave, at one time, lectures on the first of these branches with great success; he lived to a good old age and died at the age of eighty-six, honored and deserving of honor for his private and professional life, in 1861.

Of Mr. Staples, one of his pupils in 1823-1824, the last years of his instruction in New Haven, thus speaks: "Those who only saw him in the conflicts of the bar and heard his bitter sarcasms, could form no true estimate of his character. They saw nothing of his kindlier nature and social qualities, as exhibited in the office and the recitation room. As a teacher he exerted a magnetism over his students unsurpassed by any man I ever knew—a magnetism that drew his pupils into thorough study of first principles. No greater contrast could well exist than that presented by comparison of the formal law lectures of the Litchfield school and the off-hand comments and illustrations of Mr. Staples' class-room; Judge Gould read his able and finished lectures with a cold dignity to his students, each seated at his separate desk, intent on copying from his lips the principles laid down and the authorities re-

ferred to, embodying a system of law for future reference and use. In the New Haven school, at the time it was made a department of the college, the class recitations superseded in great measure the formal lecture. The student in his study drew the principles from the text book. In the recitation they were sifted, tested and illustrated. It was here that Mr. Staples was perhaps unrivaled as a teacher. His practice at the bar enabled him to illustrate principles and decisions from his own experience and observation, in such a manner as to fix them in the mind in a manner very different from the mere entry of them in a note book. Mr. Staples read few lectures, and they were not of a high order. It was as an off-hand commentator that he impressed *himself* as well as *the law* on the minds of his students."

In 1824 the school thus bequeathed by Mr. Staples to two of his brethren of the bar, had, through the publication of the students names on the annual catalogue, a sort of vague connection with Yale College, of which most of them could be called resident graduates. In 1826 the connection became closer, since, in that year Judge Daggett was appointed Professor of Law on the foundation provided by a number of Chancellor Kent's friends for his Alma Mater, and called by his honored name. It was not, however, until 1843 that the degree of Bachelor in Law on examination began to be conferred, which placed the law faculty and department on a level with the others. Thus, one may say, that fifty years ago the school was acknowledged by the college as in some measure belonging to it; forty-eight years ago it began to be a part of the university; and thirty-one years ago it reached its majority by acquiring the privilege of having its students, after a certain term of study and a successful examination, promoted to academical honors. In this way a fourth faculty of instruction was added to the college.

Considered in relation to its instructors, the school has had

three stages, and is now in the third. The first includes the years from 1824 to 1847, when Judge Daggett was at its head assisted by Mr. Hitchcock, until the death of the latter, in 1845, and by Mr. Isaac H. Townsend from 1842 until his death, in 1847. Nearly two years before Mr. Townsend's death, Judge Wm. L. Storrs was appointed one of the instructors of the school, but resigned his position in 1847, finding that the duty of instruction called him away too much from the preparation of opinions on cases of appeal in the Supreme Court. Our honored townsman, Henry White, Esq., gave his assistance to the instructors during nearly two years, from February, 1846, to October, 1847. Thus at the end of the college year in 1847, as Judge Daggett also, owing to his advanced age, had retired from instruction, it became necessary for the college authorities to put a new corps of officers into the school, and so a *second* stage commenced. The choice fell on Hon. Clark Bissell, who had been a judge of the Supreme Court of Errors, from 1829 to 1839, and was, at the time of his appointment, governor of the State; and on Henry Dutton, a lawyer, residing in Bridgeport, who had been a tutor in the college, and was now in the full practice of his profession. Governor Bissell continued his connection with the school until the autumn of 1855, when, at a ripe old age, he retired from active employments to his home in Norwalk, where he closed an honored and useful life two years afterwards. Mr. Dutton was elected governor of the State in 1854, and in 1861 was chosen one of the judges of the Supreme Court of Errors, which office he filled until his superannuation, at the age of seventy, in 1866. He continued to be the head of the school until 1869, when he died. In the year 1855, Hon. Thomas B. Osborne, who had been a member of Congress, was appointed to be an associate in the school with Governor Dutton, and continued to give instruction until 1865, when he resigned, four years before his death. From that time until Professor Dutton's death, he had



the sole charge of the school, and being often called away by his private or professional business, was not able to give the due degree of attention to his professorial charge. The school, therefore, in the last years of his life and of his office, greatly declined, until there appeared a meagre list of sixteen or seventeen students on the catalogues of 1867 and 1868, of whom a considerable part could scarcely be called students. This second stage continued for twenty-two years—about the same number of years with the first.

At this point of greatest depression, when it seemed doubtful whether the study of law as a department of instruction in Yale College ought not to be abandoned altogether, the services of three gentlemen of the legal profession, in New Haven, Messrs. Baldwin, Platt and Robinson, were engaged to carry on the instruction in law for another year. It was at first rather an experiment than a permanent plan, both on their part and on that of the college authorities. They began with seventeen students. In 1871, Hon. Francis Wayland, who had been Lieutenant-Governor of the State, was associated with them. The school recovered, by degrees, its old numbers, and at least its old reputation. The present year has brought with it more students than have ever appeared on the catalogue before.

This increase is due to several causes besides the zeal and ability of the four professors, "whose works praise them in the gates."

One of these causes is that the new professors have been able to enlarge and broaden the system of law training, by calling in the aid of auxiliary lecturers to a greater degree than before. Thus the late Professor Hadley delivered here his clear and beautiful lectures introductory to Roman Law, which have been given to the public since his death. Dr. Leonard Bacon has lectured on Ecclesiastical Law; Dr. Francis Bacon on Medical Jurisprudence; Judge Chas. J. McCurdy on Insur

ance; other gentlemen on International Law, on the Law of Patents, and on the Style and the Elocution of the Forum. It is believed that nowhere in the United States these subsidiary branches of knowledge, of which, perhaps, the special pleader or the drawer of legal formulas can afford to be ignorant, but which, when known, broaden and elevate legal study, bringing it out of the dull routine and dryness of common practice, as well as supplying food for thought—I say that nowhere in the United States are these handmaids to a finished legal education brought more effectively into the service of legal studies and made more useful than in the Yale Law School, in the latest stage of its development. And by the carrying out of this plan, it is made apparent how much more comprehensive and finished a legal education ought to be, when it is pursued as a department of a university, than when it stands alone.

The *second* cause of prosperity and ground of hope for the future lies in the apartments which have been secured for the school by the action of the New Haven County Bar and the County Commissioners. A court house had been projected, to be placed by the side of the town house, built a few years since, when it was suggested that room could be afforded for the law lectures and the library within the walls. The third story was planned with this in view, it being understood that the books of the library should be open for consultation for the judges of the Supreme and other courts held within the building, as well for the lawyers, who were to have the privilege of taking them into the neighboring court-rooms when they had cases before the tribunals. The plan has been so carried out that, at the expense of the county, a large and commodious lecture-room, an elegantly finished library, with an adjoining chamber, ready to receive books whenever the overflow shall make it necessary, a private apartment for the Dean of the Faculty, and other rooms, suitable for the purposes of “quiz-



clubs" and moot-courts, have been provided. Perhaps in no place, where a law faculty has not a building of its own, could better arrangements have been made. The bench, the bar, the school are brought not only into proximity but into harmony; the books are made available both for the student, the lawyer and the judge; and the liberality of the county which has furnished all this, free of charge or rent, receives back what, I understand, is universally agreed to be a full equivalent for what it has expended, the use of the intellectual instruments of law, no adequate collection of which had previously existed nearer than Hartford or New York.

This is the best possible arrangement that could be made for the supply of present wants; but I must avow the opinion, that, if the school should be greatly enlarged and be put upon a permanent basis of strength, increased accommodation, somewhere in a central spot, not far from the courts, would be found essential. If, for instance, the number of students should grow to two hundred, or even a hundred and fifty, instead of fifty-four, more lecture-rooms would be wanted, unless the best hours of the day should be monopolized by one or two out of a number of professors. And if the library, instead of confining itself mainly to reports of English and American courts, to the text-writers of our system of law, and to collections of statutes, should aim successfully at exhaustive comprehension, so as to include civil law with its best expounders in every language, ecclesiastical law, the digests, codes, reports and systems of all the leading European nations, with whatever is valuable on the theory of legislation, on the doctrine of rights and the State, on the history of governments and institutions, apartments many times the size of the present ones would be found necessary.\* Meanwhile, it behooves us to

\* It will be gratifying to the friends of the school to learn that something has already been done in this direction. Within the past two years about a hundred volumes of English, French and German works upon the Roman Law, as many upon different branches of political science, and over twelve hundred relating to American and English constitutional history, have been added to the Library.

accept, in all thankfulness, the chambers so liberally provided for us, and to congratulate ourselves that the books can be of general service to the profession.

The *third* cause from which we may hope for success is the enlargement of the library itself. So far as I am informed, before about 1845 there was no library pertaining to the school. Those who needed to consult authorities had to go to Judge Hitchcock's private collection, which, indeed, for that day, was quite large. In the year mentioned, and soon after the death of Judge Hitchcock, a subscription was taken up for the purchase of his library, and a considerable sum was raised for this purpose, but not enough to procure it without the intervention of the College to make up the deficiency. It was agreed upon at the same time that a certain small part of the annual receipts of the school should be devoted to the preservation and increase of the library. But in process of time, when the receipts dwindled, and the purchasing power of money became reduced, it was found not easy to keep the library in good condition, still less by additions to make it represent the progress of legal science. In 1869, therefore, when the present instructors took the school into their hands, it was found that many sets had become mutilated, that quite a number of books had disappeared, and that others were hardly fit to be used. A beginning was now made of supplying the deficiencies, but the principal movement for this purpose took place in 1873, when, chiefly by the efforts of Prof. Wayland, nearly twenty thousand dollars were collected, for the most part in New Haven and New York, to be used in the immediate purchase of additions to the library. The books procured by these new funds bring, as far as possible, the law-learning, including the laws, the text-writers, and the reports of judicial decisions, of both England and of the United States, within the reach of the students, down to the present time. The labor of purchasing these volumes, and of seeing them properly arranged in the

library, fell chiefly to the share of Prof. Platt, to whom the school and all who use the books owe great thanks. While the collection was thus expanding, Governor English, by his munificent gift of ten thousand dollars to serve as a permanent fund for the increase and preservation of the library, provided for the wants of the future. Thus, what may be called the soul of the school is full of life and growth, and it will be a pleasure to all who take an interest in Yale College to associate the name of this benefactor of more than one department of the institution, with a constantly increasing supply of that food, without which neither law nor any other branch of knowledge can have a proper support and vigor. Fifty years hence this fund, if well husbanded and well expended, will largely exceed by its annual harvests all other sources of supply, and the library will hardly fail to keep pace with the times.\*

I have spoken thus far of the outward and material side of the law department. In what remains of this address, I will call my hearers' attention to the men who have chiefly directed its affairs. And here, as I cannot well speak of the living or of those who have but just passed away, what I say must be chiefly confined to those who may be regarded as fathers and founders of the institution.

First of all comes before us the imposing form of Judge Daggett, that gentleman of the old school, with his aquiline nose, and other striking features, his white-topped boots, small clothes and silk stockings, his courtesy toward all, and that expectation of respect from others which belonged to the gentlemen of the former time. He was born in Attleborough, Massachusetts, in 1764, and came to Yale College for

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\* It should also be mentioned that, by the liberality of Hon. Marshall Jewell, Hon. James M. Townsend, and E. J. Edwards, Esq., foundations for prizes have been established, by which three hundred dollars are annually awarded to the successful competitors among the students, for excellence in scholarship, forensic composition, and oratory.

his education, probably because his relative from the same place had some time before filled the office of president of the College. He received his legal training in New Haven, after his graduation in 1783, in the office of Charles Chauncey, of whom, as having trained a number of young men in law we have already spoken, and was admitted to the bar in 1786.

Mr. Daggett seems to have early won the confidence and admiration of the people in New Haven and in the State. Starting in active life at the time of the formation of the Constitution, he espoused with warmth the federal side in politics, as against the States' rights or democratic theory; and the State being decidedly under the control of the federalists for a generation, it was not strange that a brilliant young man should be early called into political life. He was sent by the people of New Haven to represent them in the General Assembly, at the age of twenty-seven, in 1791, and for five successive years afterwards, for the last three of which he was speaker of the House of Representatives.

From 1797 until 1804, he was a member of the Supreme Court of Errors. Then he was again sent to the Assembly, and again to the Council, and in 1813 was chosen a senator of the United States. The years after his term as a senator until 1824, when he joined Mr. Hitchcock in the school, were spent in the work of his profession exclusively, without his being called into political life. In 1826 he became an associate judge of the Supreme Court of Connecticut, and was chief judge in 1833-1834, when he became superannuated, at the age of seventy.

At the time when I can first remember him, he was regarded as a great pleader, and especially his speeches in the case when Joshua Stow sued Sherman Converse for a libel produced a powerful impression upon the community. Here the feelings of the advocate were warmly enlisted on the side of his client, in whose newspaper a man of some note in the



State had been charged with malpractice as a collector of taxes, with infidelity, and with other things injurious to his character. The suit grew out of political dislike of one who was obnoxious as a democrat and as an overturner of the old charter of Charles II, under which Connecticut had been governed from 1664 until 1818. Mr. Daggett was here in his glory, and perhaps no plea ever excited a deeper interest in New Haven, especially among the students, than this. As a learned and scientific lawyer, however, Mr. Daggett did not rank so high as others, who were his juniors, and who confined themselves more closely to the duties of professional life. He had in his busy years little leisure to study the doctrines of law, except in connection with his cases. Political duties absorbed much of his time, and his judicial functions, after he was invested with them, prevented him from elaborating his lectures. He was, moreover, sixty years old when he took charge of the school. But I will let one of his pupils speak of him, who within the last few weeks has kindly communicated to me his recollections.

This gentleman, who belonged to the school near the end of Judge Daggett's connection with it, expresses himself thus :

"He lectured every morning immediately after Judge Hitchcock's recitation, and the lectures on constitutional law (which were also delivered before the seniors in college) were made very interesting, because his experience in the Senate and intimacy with many of the founders of the Republic, supplied him with many anecdotes which he told with much gusto. He had been a decided federalist, and delighted in giving an occasional slap to Mr. Jefferson, whose character and career were at that time the subject of much discussion in the debating societies of the college and the law school."

"His good humor, readiness at repartee and crusty mode of summing up his sentiments in a few words, made him always

more interesting in conversation than in the lecture-room. His lectures on the common law, which were read from well-worn manuscripts, were not as interesting. He had been so long out of practice that he had not kept up with the later decisions, and the substance of them was contained in Swift's Digest."

Others of his pupils concur in the estimate here expressed.

Of Judge Hitchcock, the colleague of Judge Daggett until his death, we have spoken as a graduate of Yale of the year 1809, and a tutor there for four years from 1811 to 1815. The accuracy of scholarship which distinguished him at college he carried into the profession of law, and soon acquired the confidence of his professional brethren and of the public. Before 1822, I believe, he began to teach law to the pupils whom Mr. Seth P. Staples gathered around him, and as we have already seen, when that gentleman removed to New York, the school was entrusted in part to him.

The leading work of his life from this time until his death, in 1845, was that of a teacher. He was a dry, exact man, clear in his perceptions, with little geniality or enthusiasm, yet with a great love of truth, and a thoroughly conscientious spirit. He shrunk from no labor, was patient in acquiring and in imparting the principles of his science, and evidently had the good of his pupils at heart. He was, withal, one of the most decidedly religious men to be found in any department of life. He was not fitted to make a deep impression on a jury, nor did he either desire or obtain political honors; but this, I think, may be said of him, that if his professional brethren wanted advice, there were few, if any persons in the city, or in the State, to whom they would sooner go than to him.

One would not suppose from the preciseness and formality of Mr. Hitchcock's general manner that he could interest students, but it would seem as if, in matter of fact, few men have ever taught law in this country with more success than he. One of his pupils expresses his recollections of him in these



words: "I was a great admirer of Judge Hitchcock. He was a model teacher. He was so clear, you could not fail to understand him fully; so copious in instruction and illustration, that he seemed to exhaust the subject, and you felt that he was master of the principles of law, and of their application and analogies; and yet so compact in style that he never used a word too much. As I had just come from Harvard, I often compared him with Judge Story, and was at a loss to decide which was the most admirable instructor. We recited to him in Cruise's Digest. It was called a book hard to understand, but under his teaching it was all clear and plain; and we wondered how it had got such a name. Recitations to him were for a full half-hour lectures from him on the subjects we were studying." Another gentleman, who studied law in this school in the years 1838 and 1839, writes of him thus: "The mainstay of the school was Judge Hitchcock. Many of the students had studied one year at Cambridge, where the school was much larger, and where Judge Story was the great ornament; but they all gave the palm to Hitchcock over Greenleaf, able and learned as the latter was admitted to be. The introductory lecture of Judge Hitchcock always made a great impression. He dwelt upon the distinction between *reading* and *study*; upon the fact that they had not come there to win prizes in the shape of degrees; that a man might read law forever, and not be a lawyer; he must study, and he might study much, but it would be to little purpose unless he accustomed himself to feel that he had the responsibility of some future client [in his hands] whose property or rights would depend upon the accuracy with which the books [he had studied] were comprehended. His running comments, as the recitation progressed, were remarkable, not so much for the matter as for the manner of putting them. There was a tinge of cynicism about him which gave much effect and pungency to his utterances. He had an intense horror of shams. The series of questions with which he tested the students'

knowledge were what might be described as searching ; they gave an interest to the pages of Cruise and Chitty, which the students, on previously reading them, had never suspected to exist."

"The recitations in the first volume of Blackstone's Commentaries had a particular interest for those who did not intend to follow the law as a profession, and many of the theological students were in the habit of coming into the lecture-room at this time."

"You are aware there are some chapters relating to subjects which are obsolete or have no possible application to this country. On that account they are not made the subject of recitation in most law schools ; but Judge Hitchcock made us [study] them all, as he said that we should find frequent references to them in our future reading, and would better understand some of the influences which had built up the common law. The chapter on the king's royal title, he thought, should be carefully studied by every one who wished to get a clear idea of English history. It was amazing, indeed, to see what stores of illustrations from history, fiction, poetry and the classics were treasured up in the brain of this man, who appeared to the world as nothing but a dry lawyer."

We add to these communications from his students the passing remark, that a man who has an under-current of enthusiasm for some special science or study, united with conscientious accuracy and clearness, will make the most successful of instructors. As soon as he wins his pupils' confidence and respect for his intellect and acquirements, the enthusiasm will be catching, and the more so, because it is of a simple, unemonstrative kind.

There was another teacher of the law school, an associate of the gentlemen already mentioned, to whose short but honorable career, a few brief words must be devoted. Mr. Townsend entered the school as an instructor when Judge Daggett was

seventy-eight years old, and three years before the death of Judge Hitchcock, with the reputation of a well read and learned lawyer. His brief career of five years as a professor of law fulfilled the expectations of those who appointed him. He was a most amiable, simple-hearted man, full of interest in the pursuits to which he had devoted his life.

In 1846 the law department was constituted, by a formal act of the Corporation, one of the co-ordinate branches of Yale College, and Judge Storrs, Mr. Henry White and Mr. Townsend were appointed professors. Mr. White gave instructions, as we have said, for the greater part of two years, but found it incompatible with his professional engagements to continue his labors longer. Judge Storrs' stay in his professorship was equally short, for a reason that has been mentioned already. Mr. Townsend sickened in 1846, and died in January, 1847. With this break in the succession of instructors, I shall bring my notices of its instructors, already too long, perhaps, to a close, for those who succeeded,—especially Governor Dutton and Mr. Osborne,—have too recently passed away, to render sketches of their lives or labors in the law department either necessary or proper.

We may now profitably turn to another subject having more important bearings on the future, and enquire whether a large and flourishing school of law can be hoped for in this city, and whether a connection with a seat of learning, where the whole circle of sciences is taught, is the best place for such an institution. In the past, especially in the most recent past, the discouragements have been very great. A gentleman was at the head of the department who, with all disposition to give his best services to it, was compelled to attend to the duties of his profession, if he would gain a support. Then he was called to the bench and left the school half-manned. The library was, so to speak, in rags. To raise the department seemed to need, not only zeal and

ability, but the patience, the self-denying outlays, without immediate returns, to which no man connected with a public institution ought to be called. But even in its present revived condition, can the school be expected to increase to any very great extent. Or must it correspond in size with the demands of the State where it is situated? Here we must take into account the disposition of great numbers of young men to go for their initiation into practical life to some central spot, like New York, which, while it is not well fitted for the preparatory training, offers great advantages to those who wish to get themselves ready for the professions of law and medicine. There is no doubt that the present law school of Columbia College is mainly indebted for its very great success to one learned and most laborious instructor, Professor Theodore W. Dwight, who, it ought to be mentioned for the credit of the school here, was for a year one of its members; but if this distinguished teacher were here, and some man of much less ability and note *there*, the numbers in the two schools would not, for that single reason, be reversed. There would not be over four hundred scholars in law here instead of but a few over fifty. Still there is no question that, with present advantages, the ability and fidelity of the professors ought, ere long, to cause a large accession to the numbers. Another consideration deserves to be brought forward in this place. I refer to the attractions that a university town offers to many young men, to the opportunities for auxiliary studies, the comparative quiet and other charms which a large city given to commerce does not possess. Though we cannot expect that the law school of Yale College, in the best circumstances, would rival, in mere numbers, one equally well situated in the centre of business, we may expect to see its prosperity very greatly enlarged with its means of instruction and its growing reputation.

At this point, when I am about to close my address, I cannot help offering to my hearers a view of a law school which, although only ideal and possible at present, deserves to be



looked at with attention. It is, moreover, one which harmonizes well with the whole circle of study pursued at Yale College, and could be realized in such a place as this, where some of the chairs already founded could be made to contribute to the carrying out of the ideal plan more easily than almost anywhere else in this country. I am the more willing to present the idea to my hearers, because I conceive it to be eminently needed as a reality in the United States. Let the school, then, be regarded no longer as simply the place for training men to plead causes, to give advice to clients, to defend criminals; but let it be regarded as the place of instruction in all sound learning relating to the foundations of justice, the history of law, the doctrine of government, to all those branches of knowledge which the most finished statesman and legislator ought to know. First of all I would have the training essential to the lawyer by profession as complete and thorough as possible. Let that be still the main thing, and let the examinations together with appropriate theses be a proof that every graduate has fairly earned his degree. But with this let there be ample opportunity for those who wish the aid of teachers in studying the constitution and political history of our country to pursue their studies in a special course by the side of or after the preparation for the bar. Let the law of nations, the doctrine of finance and taxation, the general doctrine of rights and the State, the relation of politics and morals, be within the reach of such as wish to prepare themselves for public life, and of those young men of wealth, of whom there is an increasing number, who wish to cultivate themselves and take their appropriate place of influence in society. Let there be the amplest opportunity for the study of English institutions, even far back into the middle ages, for that of Roman history and Roman law, for that of comparative legislation, and even for less immediately practical subjects, such as feudal and canon law. Let the plan of the library be expanded, so that it shall furnish the best books on all branches and topics connected with law, legislation and

government. Can it be doubted that such an institution, of which I have sketched a faint outline, would be of vast service ; that its influence would reach into the halls of Congress, into the departments of government, that it might become a fountain of light through the whole land. Such an institution on so large a scale could not be self-supporting, and certainly men from every class of society ought to share its advantages, so that the best talents of the poor as well as the rich might be cultivated for the benefit of the country ; no small amount of funds, therefore, would be needed ; but I present the idea in the hope that some man who can estimate the value of great and useful plans, and has the means to effect them, may be disposed by what I have said, or others hereafter may say better, to turn the idea into a reality.

And, now may I ask for the patience of my hearers, while I suggest one more thought touching the importance of law studies in connection with Yale College. The sciences of nature have grown immensely in theoretical and practical importance during the last century, and for a long time to come, it is probable, this growth will be unobstructed. Our system here is such that all new discoveries, all new sciences, with their practical applications, must form a part of it, and an increasingly important part. Now, these sciences have to do with natural law only, and their applications affect the development of the material side of civilization. There is danger, therefore, that the balance between body and spirit, the natural and the moral world, will be disturbed, which would be a state of things fraught with danger to the best interests of man. For this reason I desire to see all the sciences flourish side by side ; the moral in their full power by the side of the natural in theirs. Only so can the best interests of society and of the individual man be promoted and a harmony be maintained in human culture. That a school of law, teaching a science whose foundation is right and justice, would contribute to this end, cannot be doubted.



# ORATION

BY

EDWARDS PIERREPONT.

—O—

It is a singular fact in history, that the Normans, the most daring, brilliant and adventurous race that has ever yet appeared, by force of arms, established themselves in absolute and enduring power both in England and Southern Italy at the same period : and it is even more remarkable that what seemed a mere accident in the Italian Conquest should have produced such an immense influence upon England, in her Government, Laws, Commerce and Ecclesiastical policy, lasting and active even unto this day.

Along the lofty rocks which guard the shores on the Gulph of Salerno, you yet shall see remnants of the embattled walls and ruined towers which tell alike of the grandeur and decay of the once proud city of Amalfi. Here it is claimed that the mariners' compass was invented, and it is conceded that here it was perfected :—Here was founded the order of St. John of Jerusalem, made famous by the Knights of Malta ;—and here the Pandects of Justinian were found.

Six hundred years after the Pandects were published, and centuries after the Temples and palaces of Rome were in ruins and her laws almost forgotten,—Roger, a Norman king, descendant of the famed Count Tancred de Hauteville, took the City of Amalfi.—

In the Pillage of the Town a copy of the renowned Digest of the Roman Laws was discovered ;—a discovery whose effect upon the civilized world was greater in its consequences than that caused by the discovery of the Magnetic Needle.

Upon the discovery of the Pandects the study of the Roman civil law revived all over the Continent of Europe, and forthwith the Normans introduced it into England, and nearly every vestige of the common Law was for centuries almost destroyed.

Chancellor Kent remarks that: "The Pandects are the "greatest repository of sound legal principles applied to the "private rights and business of mankind that has ever "appeared in any age or nation."

Sir Mathew Hale said that: "The true grounds and reasons of law were so well delivered in the Pandects, that a "man could never well understand law as a science without "first resorting to the Roman law for information":—And Lord Holt declares that: "The laws of all nations were raised out of the ruins of the civil law and that the principles of the English law were borrowed from that system." When we consider, that this Code embraced the wisdom of the Sages of the Law and the experience in jurisprudence of all nations for more than twelve hundred years, we need not be surprised to know that the general principles of the Roman Code rule the World to-day.

But it should never be forgotten by the American Lawyer that the Digests were compiled under a *Roman Emperor*, long after her legal sages were dead, after the last embers of civil and political liberty were cold, and when even the greatest Lawyers of Rome were abject at the Emperor's feet. Hence the "*Lex Regia*" expressly inculcates the foul doctrine of absolute power in the Sovereign, and that every right and all the authority of the people were transferred to him.

Perhaps it was well,—perhaps it was necessary, that a great Empire which by law had destroyed every trace of freedom

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NOTE.—I prefer to adhere to the traditions so long accepted in relation to the revival of the Roman Law, notwithstanding the conclusions of the German Historical School.

should pass under the iron heel of the fierce Barbarian, who silenced even the wise teachings of the Roman Law while he destroyed the false doctrine of despotic sovereignty, but cherished in his rude way the dying spirit of political liberty ;—a spirit born in the half savage North,—cradled through the feudal ages,—scarce heard by the wild Soldiers who rocked it, became as the voice of an Earthquake, shook the Roman Hierarchy to its foundations, liberated the consciences of enslaved men, sent heads of tyrant kings to the bloody block, filled this vast continent with toiling freemen, and gave us the power to stand fearless on this platform and discuss the rights of the Government and the Governed, as I propose to do to-day.

In the City of Amalfi, of which we have spoken, a Council of the Roman Catholic Church decreed that no one who was engaged in the practice of the Law could enter the kingdom of Heaven.—

In the city of New Haven, Noah Webster taught the children of America, by picture before they could read, and by fable at their first lisping, that the farmer was honest and that the lawyer was a rogue :—But in spite of decretals of the Pope through his Council and of the teachings of the Puritan through his spelling-book,—Lawyers have continued to be an honored and a trusted class, the friends of liberty and the foes of oppression.

Not now stopping to debate which kingdom in the other World the Lawyer may enter, we can safely assert that in *this*, he will enter legislative assemblies, the Halls of Congress, the Senate and the Cabinets of the United States,—and hence it behooves us to know what kind of training, moral and intellectual, this great and ancient seat of learning is about to give to the young lawyers of its charge.

The founders of this Republic were wise in their generation, but of the great future not much was revealed.—In their day,

no Steamer had ever ploughed the Ocean ; no Locomotive had ever drawn a thousand men over the Earth at the rate of sixty miles an hour. Buffalo was then practically further from New York than San Francisco is to-day ; then, communication between America and England was had after a long and weary voyage ; while now, a letter written in London at the rising sun, is read in New York, *five hours* before his inspiring beams can gild the morn upon the topmost boughs of your Forest-City.

On the West, Asia with her strange civilization and her dateless history looks over into our face ;—on the East, we can talk with Christendom as we will.—Mexico, fast dissolving, will soon, very soon, melt into our embrace, and then the Commerce of the World is at our feet ! With every climate, with every soil, with every mineral and every tree which the needs of man can wish ; with colleges, newspapers, free schools, free suffrage, free speech ;—with slavery abolished, energy, enterprise, activity unparalleled, and intellect sharpened beyond any experience of the past, can we fail to become the greatest nation upon which the sun ever shone ?

Yes ;—and fail we shall, unless a change comes over the spirit of this people, and sturdy honesty drives out imbecility and corruption ! Moral forces as well as physical advantages must be considered in calculating the future of a nation. No Government can prosperously endure, which in the main, is not administered by the higher intellect and the higher moral sentiments of the people. It requires ability as well as honesty to govern a great nation wisely ; and yet, our people make frequent protest against this simple truth ;—they never employ a stupid Lawyer, to try an important cause, nor an ignorant Mariner to sail a valuable Ship, but they often elect Legislators to make laws, who know scarce anything, and about Laws and their operation,—nothing.

As the Country advances, new and complex relations make



Government the more difficult, and a higher order of Statesmanship is required.

Our fathers declared that all men were born free and equal, and to-day we have in several States Legislators who were born negro slaves, some of whom have no education whatever.

Our theory is, that the most ignorant must govern if they are the most numerous; and Arkansas, Louisiana and the other reconstructed States are giving our theory a rude test.

But we are told that the trouble in those States comes of the fault of the South :—But when your kitchen is on fire it does not help the matter to exclaim that it is the Servant's fault ;—what you want is, to save your house.

When the War was ended a Statesman could see that tho' Slavery was dead its corpse was unburied and chained fast to the foot of the Republic, and would breed disease if not wisely disposed of :—But it was not thought desirable that Statesmen should meddle in this matter, and politicians hastened to re-construct the South, upon theories crude, ill-considered and impossible of success.

The seeds of this folly are producing fruits after their kind, and bitter fruits they are,—more dangerous to liberty than any that ever ripened on our soil.

The States along the Mississippi voted large sums to repair the Levee and restrain the natural overflow of the Great River. The river would have respected a solid *dike*, but he disregarded the *votes*, and washing away his neglected banks, he overwhelmed in one disastrous flood the fields of rice, of corn, of cotton and of sugar,—destroying alike the dwelling of the rich and the cabin of the poor, and bringing ruin to the innocent for the crimes of dishonest rulers who had stolen the taxes and neglected their work.

What the flood left the pestilence will destroy, and the despairing people have cried to the Federal Government to protect them from starving.—How long do you think that Liberty can

survive in States where such ignorance and iniquity prevail, tho' every living thing should vote every Sunday in the year?—Only virtue and intelligence can preserve a Republic.

Whether the Government of the States shall become absorbed by the central power will depend entirely upon the virtue and intelligence of the States. A people advanced in civilization and loving property as we do, will have a Government which can protect them in the enjoyment of their property; and if the people of the States show sufficient virtue and ability to maintain good government, then the States will retain their power; but if through ignorance or corruption their Governments fail to protect the Citizen in his rights, State Governments will perish and surrender to the Central Power.—It is all idle to talk of *Cesarism* in this Country, and the cry awakens no alarm:—CÆSARISM is only possible when the people *seek* it as their last desperate defense against corrupt and despoiling rulers! A usurper of the Supreme Authority against the omnipotent power of public opinion would perish in a night.

We are a practical race, loving real material things—we live in the present and the future; we care nothing for the past; we have but little sentiment and no reverence for that which is merely “grey with age.”

I can recall the name of but a single man in all antiquity whose advent here would awaken any great enthusiasm.

If Cicero, the most accomplished Orator and *litterateur* of Rome should come over, with his studied speeches, arranged with exordium, argument, and peroration, made up of sentences polished, formal, and wordy in the extreme, and should undertake to address the American People, they might gather once to see him and enquire whether this was the same man who in the Roman time coined so many new words to express a few old ideas; who was peevishly ambitious, timid and vacillating; whose insatiate vanity made him talk incessantly about himself,



and induced him never to spare the feelings of his best friend if by the sacrifice he could gain the reputation of a wit at his friend's expense ; who was generally circumspect, well behaved, and in morals among the better Romans of his time, but too cowardly to be a faithful friend, and who in his old age divorced without just cause Terentia, the Wife of his Youth and the mother of his children, in order to marry his rich young Ward that he might get her money to pay the debts which his vanity and ambition had created :—The first curiosity being satisfied our people would tell him, that “ he might have been a very respectable old foggy in a by-gone age, but that we had no use for that sort of Orator in our rapid Country and that he had better go back.”

But if JULIUS CÆSAR, who lived at the same time, should arrive in the next steamer we should hail him as a native, or at least as a naturalized American, about 40 years old, who had landed in the very nick of time when the Republic wanted just that kind of man ;—we should send him immediately to Congress, and I dare say, talk of him for President before long notwithstanding the Constitution.

What was there about this Roman which should enable him to step down Nineteen hundred years and find himself at home in our midst?—He had some *flagrant* vices : but meanness and vacillation, treachery and cowardice had no dwelling in his soul.—

In the field,—with perceptions intuitive and quick as the electric flash, followed by celerity in movement never before conceived ;—unselfish in danger, sharing the humblest meal with the humblest soldier, and shunning no hardship and no peril which he asked other men to brave ;—fearless in battle as a man of fate, and generous in the hour of victory as no Conqueror had ever been before him.

In the forum,—eloquent and condensed, going right to the marrow of the thing, using words only to enforce ideas. Al-

ways forgiving, and liberal to excess ; and when he came to the helm of State showing a grasp of mind, a grandeur of ideas and a greatness of soul which won the hearts of the people and awakened a jealousy in mean rivals which only his blood could appease ; And when they had murdered "this foremost man of all the world," under the false pretense of liberty for Rome, what did the Roman people gain? Freedom for Rome? Not at all ;—The bloody deed but sealed her doom and hastened her destruction !

He comes through the centuries to our times like one born in our Generation because, while gifted with other transcendent faculties he was so richly endowed with the faculty of imagination ;—a faculty which inspires the others.—This is the vestal fire which never grows cold, the flame of immortal youth ;—it illumines the mind in every age to detect the truth ;—to see things in their complex relations just as they are, and to behold in their train the events which are coming in the unerring sequence of causes which are passed.

It is this which makes Homer and Shakespeare poets of all time— which revealed to Plato and Lord Bacon their amazing wisdom :—which made Hannibal, Cromwell and Napoleon the wonder of their age,—which gave to the logic of Chatham, of Burke and of Webster its vital force, and lifted them intellectually above their compeers.

President Porter, in his work on the "Human Intellect," says: "In the communication of scientific truth there can be no question that a large measure of imagination is of essential service. \* \* \* Indeed, we may safely say that in the history of speculation and science not a man can be found who was distinguished for philosophic genius who did not possess an active and a glowing imagination, and whose imagination did not render essential service in the operations of thought."—And further,— "that its workings are more fitly compared to inspiration than those of any other endowment of the soul."

Tyndall, in his "Fragments of Science,"—treating upon the scientific use of the imagination, says :

"We are gifted with the power of imagination, and by this power we can lighten the darkness which surrounds the world of the senses. \* \* Bounded and conditioned by co-operative Reason, imagination becomes the mightiest instrument of the physical discoverer. Newton's passage from a fallen apple to a fallen moon was at the outset, a leap of the imagination. \* \* In fact, without this power, our knowledge of nature would be a mere tabulation of co-existences and sequences. We should still believe in the succession of day and night, of summer and winter ; but the soul of Force would be dislodged from our Universe ; causal relations would disappear, and with them, that science which is now binding the parts of nature to an organic whole."

And Agassiz, in his geological treatise, says :

"Imagination, chastened by correct observation, is our best guide in the study of Nature. We are too apt to associate the exercise of this faculty with works of fiction, while it is in fact the keenest detective of truth."

I think we may assert that without a liberal endowment of this faculty no one in science, letters, art, statesmanship or war has ever gained an imperishable name.

I have said that we are not a sentimental race.—Look at the Washington Monument, on the Banks of the Potomac!—The association to rear it was started 41 years ago, with Chief Justice Marshall at its head and an Ex-President as his second :—According to the plan it was to rise high above the Pyramids.—It rose about 170 feet, and 20 years ago it stopped, and *looks* very determined never to rise any more ! Intelligent Foreigners, now here, express amazement that we show no sentiment about the Centennial of our Nation's birth, and in contrast point to the celebration last month, of the raising of the Siege of Orleans, which has been continued through cent-

uries with increasing enthusiasm.—Perhaps sentiment of this kind does not flourish in a Country whose history is so new, and certain it is that we have nothing like the raising of the Siege of Orleans where we can mingle fable and religious awe with the historic event, and enkindle anew at each returning May the sentiment of reverence for the simple shepherd-maid by whose almost miraculous power the siege of the City was raised.—But it is not surprising that the name of Jeanne D'Arc should be held in such reverence in France. No one can read her brief but beautiful life, her marvellous deeds, her wonderful trial, her cruel death, and fail to feel that no holier soul has ever lived on earth or ascended to the Savior through the flames!

Read over again the History of the Roman Republic to the death of Julius Cæsar, and the History of England from the reign of Elizabeth, and you will be startled by the parallels in our own time, and possibly you may fear lest we suffer some of the like punishments.

One and the same unvarying lesson is there taught,—that when the Government is conducted by able and upright men, the nation advances in civilization, riches and power; but when the nation is ruled by the dishonest, and spends lavishly through its debts,—luxury, corruption, injustice, fraud and their inevitable consequences are sure to follow, and like war, demoralize and destroy the innocent with the guilty.

Elaborate investigations have been made to find out the causes of longevity in men, but statistics have revealed only the single uniform fact, of early rising and early retiring.

When Statesmen shall have investigated the causes of longevity in States, I imagine they will find that moral causes alone and very simple ones, will give the solution.

China, whose history through the elaborate works of the Commission established by the French Government in 1851, we are just beginning to read, stands forth as the most illus-



trious example. As the increasing fleet of steamers on our Pacific Coast are bringing us every day in closer relations with that vast Empire, and as her laborers are pouring over to our Shores, it becomes the American Statesman to give heed to the great fact, and consider what effect this is to have upon the future of our country.

Her civilization, her polity, her religion differ widely from ours, and when at the Cannon's mouth we shall have forced commercial relations, steam-machinery, electricity, Hoe's printing press, and paper money upon the Chinese, we had better not forget that in exchange they will force upon us, an interminable throng of Emigrants, who will bring their peculiar morals, habits and religion, and their peculiar vices ; and that soon they will acquire the right to vote. Remember that China can send fifty million of voters to our shores and have more left than she knows what to do with. *This voting question* is a difficult one which the American people will reconsider some day, and perhaps we may then hear the honest inquiry, who will make the best rulers, as well as who can get the most votes ?

We just begin to hear a little murmur on the breeze coming up from the South,—but few note effects from silent causes which are stealing along like the unobserved rising of the tide.

When Governor Seward lately visited China he was surprised to find that the greatest work of human hands begun 240 years before Christ, was so well constructed that "but very slight repairs would restore it to its original state." A solid fortification some fourteen hundred miles long, built over mountains, rivers and ravines ;—A work which the Pyramids will not outlast, and which was all done in less time than it takes to build a Court house in New York, and—possibly at less expense. The great river, Yang-tse-Kiang runs three thousand miles through Central China and empties into the Pacific

directly opposite San Diego in California;—it greatly surpasses in depth, breadth and volume of water our great Mississippi River, while the Imperial Canal, (twice as long as the Erie Canal) with its branches, makes a system of *artificial* navigation of Four thousand miles.

It is her relation to this Country which warns the American Statesman that he cannot neglect the present condition and past history of China. Her history is unique as her people. She was a populous kingdom three thousand years before the Christian Era. She saw the beginning and the end of the Assyrian, the Persian and of every Ancient Empire. She was powerful when the Pyramids were built, when Joseph was a slave, before Sesostris was King or Osiris was worshipped;—She was a mighty Empire when the first stone of the Temple of Solomon was laid and still greater when the Mosque of Omar was built upon its ruins. She was rich immensely, when Rome was conquering the World, yet no Roman Legion ever trod upon her soil; and to-day she is richer and more populous than at any period of her existence, and at her last census, as we learn through the French Government, she numbered over 530 Million of Souls. (530,595,887.)

There must be some great *moral* reason for this unparalleled longevity. The mandate, "Honor thy father and thy mother that thy days may be long," has been religiously obeyed in China, while her social and political organizations, however defective, have been goverred by her wisest and best.

With the solution of the many grave questions in the near future, the educated Lawyer will have much to do, and the enquiry arises whether a great University is the best place in which to educate a Lawyer? A great University is the best place in which to educate anybody who is to take part in affairs; and this should be kindly told to the noble men who are giving their substance to endow small Colleges all over the country.

The influence of congregated numbers is not sufficiently considered, either in the intellectual, moral or physical development of men. The boy who comes in daily contact with crowds of other boys will be widely different in robust vigor from the one who is educated alone by a tutor at home.

That subtle influence, that magnetic force equally necessary for the development of a healthy body and a healthy mind, is lost in seclusion, and can only come of the congregation of numbers. Not only contact of mind with mind, but contact with many minds, is absolutely essential to a perfect growth.

The American artist finds his genius flag in his solitary home, and he goes to Florence or to Rome, where, in the spirit of the place, among an artistic crowd, he has new inspirations and capabilities which alone he could never attain.

Place even an educated man upon a fertile plain, with no companions but laborers, whose daily bread depends upon their daily toil, and though he may have the ASTOR LIBRARY in his house, at the end of a few years he will have rusted out. Association tends to culture and advancement; dispersion and isolation tend to barbarism;—and this is true the world over.

Equality is the central idea with our people, and I dare say that in this large audience there are many benevolent persons who would make all equally rich; but it would come to about the same to make all equally poor. The rich man would not do the menial work of another rich man, and the rich woman would not wash and cook for the rich man's wife;—the poor man will not brush the shoes of another poor man who can give him no pay, and all the social wheels would be ablock.—

Equality before the laws we can have; equality of condition is impossible.

A striking feature in our late development is an intense individualism, not favorable to the best interests of the State. The reason is obvious;—for civil services, however great, the State confers no permanent honors or lasting rewards, and

in ordinary times, the working of our system does not admit those, who would serve for honor and patriotism, to serve at all.

We drift away from the economy of former days. During the early years of Washington's administration the entire ordinary expenses of the Federal Government were but \$1,877,000 a year; while the taxes of the single city of New York this year are \$39,218,945.79; and the cost of the Federal Government for the fiscal year, this month ending, as estimated by the secretary of the treasury, is \$319,198,736.82.

A little arithmetic will show that our expenses have increased in far greater ratio than our population and resources;—an ugly fact,—so ugly that no one seems willing to look it in the face.

The city of New York will best illustrate how easily great natural advantages may be destroyed by moral causes.

Better placed for commerce than any other great city on the globe, New York is losing her trade. A corrupt and imbecile government, neglecting the piers, docks, storehouses, elevators and other facilities for business, has through fraudulent practices so increased the taxes and other exactions upon the merchant, and thus made his expenses so enormous that other places can undersell him, and trade, never sentimental or æsthetic, goes where it can buy cheapest.

Money has a closer relation to morals than is generally admitted. In all history, whether of individuals or communities, I find that laxity in money matters is followed by looseness in morals; and among other evidences I note a favorite theory, quite prevalent just now, that there ought to be increased facilities in obtaining divorces, on the ground that facility of divorce will diminish the temptations to vice,—That is,—*legalize Robbery to prevent Burglary?*

However great our boasted independence may be, we are nevertheless, in some respects, facile imitators of older nations.



We are hardly conscious of the increasing influence of England upon this country ;—an influence somewhat reciprocal. She has a glorious history, and you cannot breathe her air and see the evidences of her perfect order, her progress and her colossal power without a thrill of reverence for the old fountain of our blood :—But to reach her present greatness England struggled for several centuries through ignorance, tyranny, wars and corruption of which we have no parallel, and out of which we draw much consolation for our future.

The reign of Queen Elizabeth is regarded as one of the most glorious in English history.—It was the time of Walsingham and Burleigh ; of Shakespear, Bacon and Raleigh.

About the court of Elizabeth was a young courtier named Christopher Hatton ; he had never been admitted to the Bar, and his only qualification for the highest Judicial Office in the Realm was comeliness of person, skill in dancing and foppery in dress ; and yet, to the amazement and chagrin of all the great Lawyers of the time, this handsome dandy was made Lord High Chancellor of England, and held the Office until he died.

Under all our Presidents the highest judicial places have been given to able men, and when the great office of Chief Justice fell vacant by the death of Chief Justice Chase, the President selected no personal favorite, but bestowed the high honor upon an eminent lawyer of tried integrity, a native of your State, a son of old Yale, and I may add with pardonable pride,—a member of the class of '37.

When James, the successor of Elizabeth, tried to extend his Royal prerogative against the liberties of England, he found Coke and other great Lawyers stoutly to resist. When Wentworth, by far the most able, the most eloquent, the most resolute Commoner who had ever appeared in England, entered Parliament, he took the side of the people against the encroach-

ments of Charles ; but after seven years he became an apostate, and turned all his vast abilities, his experience, sagacity, determined purpose and his inflexible will, to the establishment of that thorough system of king'y power which should forever crush the liberties of the people ; But he found a legal lion in his way, and when ruling Ireland with iron hand and adamant heart, striving with all his might to subject every private suit in the Courts of Justice to the Royal prerogative, he writes to Laud : " I know very well that the Common Lawyers will be passionately against it, who are wont to put such a prejudice upon all other professions, as if none were to be trusted, or capable to administer justice but themselves ; yet how well this suits with *Monarchy*, when they monopolize all to be governed by their year books, you in England have a costly example."

At times, England has had her prostrate judges and a slavish Bar, but in the main, her Lawyers have fought valiantly for liberty, and to-day we can point to every Christian Government on earth and be certain that its liberties can be measured by the influence of its Lawyers.

As the price of his apostacy Wentworth was made the Earl of Stafford, but under the lead of Pym and the resolute Lawyers of the time, the Earl was arraigned for attempting to subvert the Laws and the liberties of England. Even his bold spirit grew alarmed at the tone of the Commons, and he sought the King.—

Charles gave him the most solemn assurances that " not a hair of his head should be hurt," and a few days after gave his royal assent to the Bill of Attainder which brought this ablest minister, whom the king had used to make himself absolute, to a bloody and an ignominious death ! Few years passed by,—uneasy years for this perfidious king ;—and Charles walked up the scaffold to die, as he had let his faithful Stafford die ;—and when the beheading axe was seen, we may well be-

lieve that the shade of the Earl appeared to the faithless king,  
who mournfully exclaimed,

——— "When we shall meet at compt,  
This look of thine will hurl my soul from heaven.  
And fiends will snatch at it."

Now calmly standing near the vacant throne we see by far  
the greatest sovereign that England has ever had.

Literary sycophants have been accustomed to revile the  
character of Cromwell and to represent him as a low born  
vulgar hypocrite or bigot. He had not the parlor graces of  
Lord Chancellor Hatton, but he would have walked alone,  
thro' an army of Hattons as an ox walks through a field of  
grasshoppers.

Born of an ancient family, descended from some of the high  
nobility, he was related to Thomas Cromwell the Earl of Essex  
and sometime minister to Henry VIII. His grandfather was  
Sir Henry Cromwell the Lord of Hinchinbrook, known as the  
"Golden Knight," on account of his great riches; and his  
mother was of the best of English blood, and her relationship  
to James I induced that Monarch on his way to take posses-  
sion of the English Crown to become a guest at the Cromwell  
Mansion, where Oliver, then but four years old, saw the King  
at the family table;—James little dreaming that the head of  
his own son would be cut off by this kindred boy, who should  
reign in his stead.

He was educated at the University of Cambridge, and when  
but 18 years old he was called home by the death of his father  
to be the sole protector of his mother and sisters.

While reading law in London at the age of twenty, he fell  
in love with Elizabeth, the beautiful and accomplished daugh-  
ter of Sir James Bouchier, a wealthy knight.

At the age of 21 he married, and under the same roof with  
his mother took his young bride, who afterwards coming to her

exalted station showed a purity and nobleness of character more beautiful than her personal loveliness. She was the first and *only* love of Cromwell, and in the height of his greatness and near the end of his reign, when necessity had separated them for a short time, she, like a true and loving woman, chided him for not writing oftener; and to her chidings he replied:—"My beloved Wife,—You scold me in your letters because by my silence I appear to forget you; truly it is I who ought to complain, for I love you *too much* :—Thou art dearer to me than *all the world*."

He was in Parliament at the age of 29 and again at the age of 40, and when the Civil War broke out he raised two companies of soldiers at his own expense and devoted his entire estate to the public service :—

And, when he came to power, the haughtiest kings and nobles of Europe sought political and matrimonial alliance. At his death the court of France went into mourning, tho' he had required Louis XIV to banish the sons of Charles, whose widow was Henrietta of France, the daughter of Henry the Great :—He was buried in Westminster Abbey as a legal monarch beside the annointed kings.

There was a time when all seemed lost of the liberties of England, and Cromwell thought of leaving his country. But in those trying times, when all good men began to despair,—Cromwell and the just men who sympathized with him "sought the Lord in prayer;" and it was "His guidance," as they believed, to gird on their swords for war and rescue England from her slavery :—and from that hour they never faltered and they never feared. Prince Rupert, the nephew of Charles, was accustomed with his gay troopers to carry all before him by his dashing onsets. At the battle of Marston Moor he led 20,000 eager Royalists, and for the first time, he dashed against the "Ironsides" of Cromwell. It was like the dash of sea-foam against a granite mountain! After the battle, Cromwell



wrote to his wife:—"God made them as stubble to our swords."

When in the plenitude of his power, young Lely, afterwards the Court painter of the frail beauties of the Second Charles, wanted to paint him.—"Paint me as I am" said Cromwell; "If you leave out the scars and wrinkles I will not pay you a shilling." Go to the Pitti Palace,—the picture with the scars and the wrinkles you shall see, but a kinglier head reposed on kinglier shoulders you shall never see!

Voltaire, in his history of Louis XIV, says :

"He increased his power by knowing when it was proper to restrain it: he made no attempt on those privileges of which the people were jealous: Soldiers were never quartered in the city of London: he imposed no taxes that might occasion murmurs: he did not offend the eyes of the public by appearing with too great pomp and grandeur: he did not indulge himself in any pleasures: he accumulated no treasures: and he took care to have justice administered with that strict impartiality, which makes no distinction between the high and the low, the rich and the poor \* \* Commerce had never been so flourishing or so free before: and England had never been so rich. Her victorious fleets made her name respected throughout the world."

But England had grown tired of being virtuous and honest, and thought that she could prosper without these inconvenient restraints, and with intoxicated joy she hailed home that "merry monarch" the second Charles;—and a merry time they had;— The dead body of the Great Ruler who had brought such riches and power to England, was dragged from its coffin in Westminster Abbey, hanged and mutilated at Tyburn and thrown into a ditch.

The Court was crowded with men, rival scoffers at every sacred thing; and with women rivals in the open shamelessness

of their vices. Wanton luxury and extravagance appeared in every form ; But retribution came swifter and more terrible than the people had anticipated.—From the demoralized condition of the kingdom, commerce fell off, trade languished,—the spirit of the nation was gone :—England, so powerful under Cromwell, became the scorn of the Nations ; her King the Vassal of France, and her Navy but lately the terror of the world became too feeble to protect her coast.—The Dutch sailed up the Thames, and English Merchants saw the flames of their burning ships from London Bridge. The Goldsmiths and Bankers of London were accustomed to borrow money of their dealers at a low rate of interest and lend it to the Government at a higher rate, to be repaid out of the taxes of the year.—Millions of coin had thus been deposited by the Bankers in the Royal Exchequer : the King wanted money for his dissolute Court, and he did not like to face the Commons.—Clifford suggested that an easy way to raise the means would be to close the Treasury and rob the Bankers and their clients of these millions of Coin :—This suited Charles exactly, and he made Clifford a Peer, gave him part of the stolen money and squandered the rest. The effect of this perfidious robbery can well be imagined :—Consternation followed ; thousands of Widows and Orphans, poor Clergymen and men of humble means, together with the Goldsmiths and Bankers were brought to poverty in a day, and every honest cheek in England was blanched or blushed with shame, and every honest soul prayed for an hour of stern old Cromwell's rule.

But England remained in vassalage suffering the punishment of her "*merry making*" for many long years, nor did she even *begin* to recover the prosperity or the rank which Cromwell had given her until after the peace of Ryswick, and not even until the early years of the 18th century.

Economy is a sterling virtue in the administration of the

State, and without it neither justice or honesty is possible in Government.

Extravagance is one of the most corrupting vices and leads by easy grades to numberless crimes. It is the curse of our day ; it came of the issue of irredeemable paper money to carry on the war ; and when the war was ended luxury had produced an intoxication too dreamy to be voluntarily abandoned.

Our duty was plain ; and to any one worthy to be called a Statesman our interest was as plain as our duty.—We should have turned all our energies to keep our faith, to redeem our promises, to stop our luxuries and end the sham which has corrupted the nation.

Like cowards we have shut our eyes to the truth and reveled in delusions until we can deceive ourselves no longer. The reconstructed States, eager to prosper with the rest, issued Bonds which they never hoped to pay, ruined their credit and their thrift and tumbled into anarchy,—while we of the North have piled up our debts until our taxes are a burden too grievous to be born.—We wake from the deceiving dream to learn that the American people are subject to the same laws of Nature and of Finance as other mortals ; that a promise to pay a dollar is not a dollar ;—any more than a promise to deliver a horse, for a load of wheat received, is a horse ; that our industries are paralyzed because confidence has ceased, and that the issue of a thousand millions of new greenbacks would not restore the lost confidence for an hour, or revive trade in the least.

It will dawn upon the popular mind before long, that during the war the Government printed "*legal tender*" and paid it out for everything which the country produced, and thus gave a temporary prosperity, but that now the Government do not pay out a dollar for anything until it has first collected the money from the people,—when the changed condition is understood it will be seen that a new issue would be a delusion and

a fraud. The farce of attempting to create property by legislative enactment was long since played out by older nations, and always with the same disastrous results.

It is now thirteen years since specie has been our currency :—For more than twenty years England, through the influence of the Napoleon wars was in the same condition, and she listened to the same shallow arguments which we now hear ; but her prosperity never returned until under the manly lead of Sir Robert P  el, she faced the situation, accepted reality and rejected sham : from that hour her onward progress begun.

We have been as extravagant as England after the restoration and we are in debt for the revelry :—But some well-to-do Citizen looks up with innocent surprise and says, “I am not in debt.”—But you *are*, my deluded friend, and your house and your store and all that you have is heavily mortgaged, and so are the wages of the humblest laborer, and none can escape.

That our prosperity will revive again I make no question ; it is the tribulation preceding the revival which we ought to avoid. A country with a people so active and resources so boundless will get along ; but wise statesmanship might save us many setbacks and heavy troubles into which the lack of statesmanship may plunge us.

A Government which gets money from its Citizens on a promise which it never tries to keep does not differ in the least from the King who took his subjects’ money without the pretense that he ever meant to pay. When a Government cheats its Citizens, its Citizens will cheat each other. The hardest strain which free government has ever had is close at hand : the next Presidential election is the turning point ; it begins a new century in our history—the public mind will be awake, and that will be an eventful day. It will settle the question whether our Government will keep its faith, and turn its determined face towards justice, economy and truth, and thus begin with the new century a new career of prosperity and



grandeur and riches such as the world has not seen, or whether it will imitate England in her corruptest times and take the curse which afflicted her so long.

When the conflict comes may every lawyer and every man whom this great college educates stand for the public faith, for the honor and the glory of his country, with his face to the enemy and his trust in Heaven.



HISTORICAL DISCOURSE

BY

THEODORE D. WOOLSEY,

AND

ORATION

ON

THE INFLUENCE OF LAWYERS UPON FREE GOVERNMENTS, AND  
THE INFLUENCE OF MORAL FORCES UPON THE  
PROSPERITY OF GOVERNMENTS,

BY

Hon. EDWARDS PIERREPONT, LL.D.,

PRONOUNCED BEFORE

THE ALUMNI OF THE LAW DEPARTMENT

OF

YALE COLLEGE,

AT THE

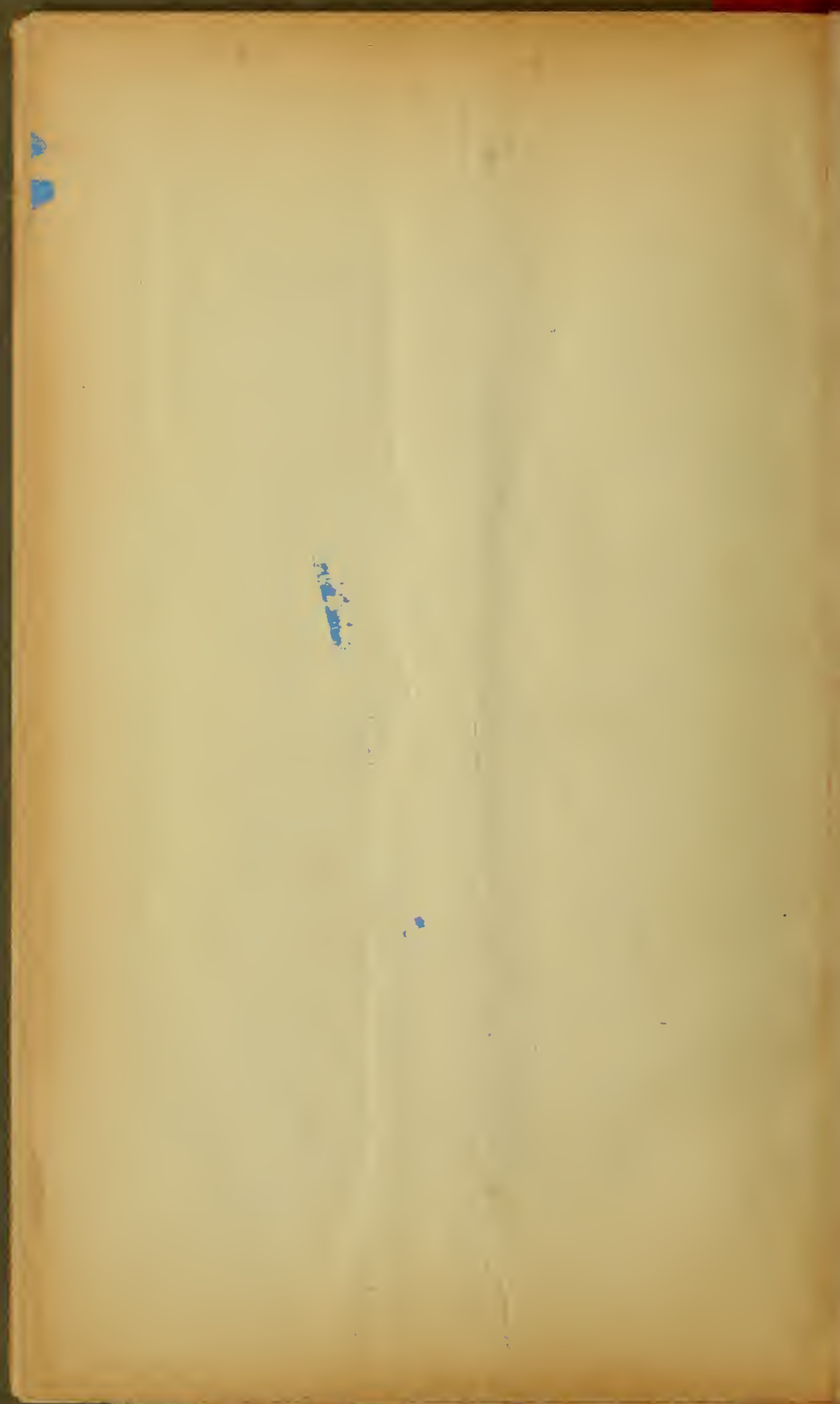
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